

Translation

PATENT COOPERATION TREATY

PCT/EP2003/006264



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 2002DE422	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/006264	International filing date (day/month/year) 13 June 2003 (13.06.2003)	Priority date (day/month/year) 28 June 2002 (28.06.2002)
International Patent Classification (IPC) or national classification and IPC C12H 1/044		
Applicant CLARIANT INTERNATIONAL LTD		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 4 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 1 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 04 December 2003 (04.12.2003)	Date of completion of this report 16 June 2004 (16.06.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International Application No.

PCT/EP2003/006264

I. Basis of the report

1. With regard to the elements of the international application:*

☐ the international application as originally filed

☒ the description:

pages 1-7, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

☒ the claims:

pages _____, as originally filed
pages _____, as amended (together with any statement under Article 19
pages _____, filed with the demand
pages 1-8, filed with the letter of 08 April 2004 (08.04.2004)

☐ the drawings:

pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

☐ the sequence listing part of the description:

pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language _____ which is:

☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).

☐ the language of publication of the international application (under Rule 48.3(b)).

☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

☐ contained in the international application in written form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages _____

☐ the claims, Nos. _____

☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/06264

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-8	YES
	Claims		NO
Inventive step (IS)	Claims	1-8	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-8	YES
	Claims		NO

2. Citations and explanations

This report makes reference to the following document:

D1: DE 24 08 896 A (BAYER AG) 28 August 1975 (1975-08-28)

1. D1, which is regarded as the closest prior art, discloses (see page 2; page 4, first to third paragraphs; page 5, fourth paragraph to page 6; examples) the use of silica sols having a particle diameter of between 4 and 150 nm and a surface of between 20 and 700 m²/g for clarifying wine, from which the subject matter of claim 1 differs in that the silica sols have a pH value of between 1 and 4.
2. The subject matter of claim 1 is therefore novel (PCT Article 33(2)).
3. The applicant has convincingly shown by way of comparative examples that a low pH value is essential for solving the technical problem.
4. The problem to be solved by the present invention can therefore be regarded as that of providing a silica sol having a particle diameter of between 4 and 150 nm and a surface of between 20 and 700 m²/g, this silica sol being more effective in fining and

clarifying beverages.

5. The solution to this problem proposed in claim 1 of the present application involves an inventive step (PCT Article 33(3)) for the following reasons: the use of a silica sol having a particle diameter of between 4 and 150 nm and a surface of between 20 and 700 m²/g and a pH value of between 1 and 4 is not obvious from the prior art and is also not obvious to a person skilled in the art.
6. Claims 2 to 8 are dependent on claim 1 and therefore also meet the PCT requirements for novelty and inventive step.